IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 1ST DAY OF AUGUST 2024 / 10TH SRAVANA, 1946

WP(CRL.) NO. 240 OF 2024

CRIME NO.938/2020 OF Mathilakom Police Station, Thrissur

AGAINST THE ORDER/JUDGMENT DATED 23.02.2023 IN SC NO.587 OF 2020 OF FAST TRACK SPECIAL COURT, (POCSO) IRINJALAKUDA

PETITIONER:

SOUMINI K.S
AGED 42 YEARS
W/O PARTHAN,
CHETTIPARAMBIL(H),
PADINJARE
VEMBALLUR P.O,
THRISSUR, PIN - 680671

BY ADVS.
JERRY MATHEW
DEVIKA K.R.

RESPONDENTS:

1 **STATE OF KERALA**
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
PIN - 682031

2 **THE DEPUTY INSPECTOR GENERAL OF PRISONS**
CENTRAL ZONE
VIYYUR, THRISSUR,
KERALA, PIN - 680010

3 **THE SUPERINTENDENT**
CENTRAL PRISON AND CORRECTIONAL HOME,
VIYYUR, THRISSUR, KERALA,
PIN - 680010

OTHER PRESENT:

SMT. SREEJA V (PP)

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 01.08.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

W.P.(Crl) No.240 of 2024

Dated this the 1st day of August, 2024

JUDGMENT

Petitioner's brother was the accused in S.C.No.587 of 2020 of Fast Track Special Court, Irinjalakkuda now undergoing incarceration as convict No. 158/2023 of Viyyur Central Prison. Petitioner seeks the grant of leave for 30 days for her brother. The reason stated by the petitioner is related to the illness of the convict's mother. Though petitioner's application for emergency leave was rejected earlier, during the course of the proceedings in this writ petition, petitioner has produced Ext.P3 certificate from a doctor stating that the mother of the convict is almost bedridden.

2. The learned counsel for the petitioner contended that the condition of petitioner's mother is deteriorating every day and she is in her final stages requiring the grant of emergency leave for the convict.

3. Since the learned Public Prosecutor submitted that the petitioner's brother has been convicted for the offence under

Section 376 of the Indian Penal Code, 1860, he is not entitled to be released on ordinary leave. However, it was submitted that if any proper application is filed as contemplated by law producing the required certificates, the respondent shall necessarily consider the same for the purpose of emergency leave.

4. In view of Ext.P3 certificate purportedly issued by a doctor of a Primary Health Centre, the convict or the petitioner is at liberty to file an appropriate application for the grant of emergency leave to the convict. If any such application is filed, the same shall be considered by the Competent Authority in accordance with law, without undue delay.

With the above observations, this writ petition is disposed of.

Sd/-

BECHU KURIAN THOMAS
JUDGE

AJM

APPENDIX OF WP(CRL.) 240/2024

PETITIONER EXHIBITS

Exhibit P1	**A TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY DR. M MUKUNDAN, PSYCHIATRIST ON 02.02.2021.**
Exhibit P2	**A TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY DR. PRAVEEN K.S, J C ORTHO ON 15.12.2023.**
Exhibit P3	**MEDICAL CERTIFICATE ISSUED BY DR.PRAVEEN K.S, ORTHOPEDIST CURRENTLY PRACTICING AT PRIMARY HEALTH CENTRE, KODUNGALLUR DATED 01.07.2024**